

REMARKS

Preliminary remarks

Entry of the foregoing amendments is respectfully requested.

The specification is amended to identify the ATTC accession numbers of hybridomas that produce antibodies 7C10 and 16C10 which were deposited under the Budapest Treaty.

Claims 19, 34, 35, 39, 42, 44-46, 50, 53, and 55 are amended to specify that antibody 7C10 is produced by a hybridoma assigned ATTC deposit no. HB-12117, and that antibody 16C10 is produced by a hybridoma assigned ATTC deposit no. HB-12119, in accord with the declaration of deposit submitted herewith.

Patentability remarks

35 U.S.C. §112, first paragraph

Claims 19, 34-39, 42, 44-50, 53, and 55 were rejected under 35 U.S.C. §112, first paragraph, because the specification allegedly fails to describe antibodies 7C10 and 16C10 in terms that would enable one of skill in the art to make or use the claimed invention without undue experimentation.

The specification is amended to state that hybridomas that produce antibodies 7C10 and 16C10 were deposited on May 29, 1996, with the American Type Culture Collection (ATCC) under the provisions of the Budapest Treaty. A copy of the ATTC deposit receipt for the deposits is attached. A declaration of deposit of antibodies 7C10 and 16C10 executed by the undersigned attorney on behalf of Biogen Idec, Inc., the successor of the assignee of the application, is also submitted herewith. The declaration of deposit states that the ATTC is a depository in accordance with the Budapest Treaty, and that the assignee will replace the deposited cells for at least thirty years from the date of the original deposit, or for at least five years from the date of the most recent request for release of a sample, or for the enforceable life of any patent issued on the above-identified application, whichever period is longest, should the cells mutate, become non-viable, non-functional, or be inadvertently destroyed. The declaration of deposit further states that the deposits have been made under conditions of

assurance of ready accessibility thereto by the public if an enforceable patent is granted whereby all restrictions to the availability to the public of the cell lines so deposited will be irrevocably removed upon the granting of the patent, and that access to the cell lines will be available during pendency of the patent application to one determined by the Commissioner of Patents and Trademarks to be entitled thereto under applicable statutes and regulations.

In view of the foregoing, withdrawal of the rejection of claims under 35 U.S.C. §112, first paragraph, is respectfully requested.

35 U.S.C. §112, second paragraph

Claims 19, 34-39, 42, 44-50, 53, and 55 were rejected under 35 U.S.C. §112, second paragraph, because the terms “7C10” and “16C10” are alleged to be indefinite.


Claims 19, 34, 35, 39, 42, 44-46, 50, 53, and 55 are amended to specify that antibody 7C10 is produced by a hybridoma assigned ATTC accession no. HB-12117, and that antibody 16C10 is produced by a hybridoma assigned ATTC accession no. HB-12119. In view of the amendment, withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested.

Appl. No. 09/576,424
Amendment dated September 22, 2004
Reply to Office Action of March 22, 2004
Attorney Ref. No.: 037003 – 0275681

Conclusion

All rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and a Notice to that effect is earnestly solicited. If any points remain in issue, which the examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,
PILLSBURY WINTHROP, LLP

By 
Thomas A. Cawley, Jr., Ph.D.
Reg. No.: 40944
Tel. No.: (703) 905-2144
Fax No.: (703) 905-2500

PILLSBURY WINTHROP LLP
P.O. Box 10500
McLean, VA 22102

TAC/CCR/sm

Appl. No. 09/576,424
Amendment dated September 22, 2004
Reply to Office Action of March 22, 2004
Attorney Ref. No.: 037003 – 0275681

Attachments:

Attached hereto are copies of:

- (a) An ATTC deposit receipt for the deposit of hybridomas 7C10 and 16C10;
- (b) A declaration of deposit of hybridomas 7C10 and 16C10.